

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (E 3338-E) for Authority to Institute a Rate Stabilization Plan with a Rate Increase and End of Rate Freeze Tariffs.	Application 00-11-038 (Filed November 16, 2000)
Emergency Application of Pacific Gas and Electric Company to Adopt a Rate Stabilization Plan. (U 39 E)	Application 00-11-056 (Filed November 22, 2000)
Petition of THE UTILITY REFORM NETWORK for Modification of Resolution E-3527.	Application 00-10-028 (Filed October 17, 2000)

**ADMINISTRATIVE LAW JUDGE'S RULING
SETTING PROCEDURAL SCHEDULE FOR
DIRECT ACCESS COST RESPONSIBILITY PHASE**

This ruling orders evidentiary hearings and sets a preliminary schedule relating to the issue of cost responsibility of Direct Access customers. The schedule set takes into account the comments of parties as presented at the Prehearing Conference (PHC) in this matter held on February 22, 2002. New appearances were added to the service list at the February 22, 2002 PHC, and were appended into the transcript of the PHC.

Pursuant to the ruling issued on December 24, 2001, the issue of cost responsibility of Direct Access customers for a portion of the California Department of Water Resources (DWR) revenue requirement was transferred

from Application (A.) 98-07-003 *et al.* into this proceeding. On February 21, 2002, the Commission adopted Decision (D.) 02-02-052,¹ implementing measures for DWR to collect its revenue requirement for 2001-2002 from customers in the service territories of the three major utilities. That decision deferred the issue of DWR cost responsibility for Direct Access customers to a later phase of this proceeding. On March 21, 2002, the Commission adopted D.02-03-055, maintaining the date of September 20, 2001 for direct access suspension, and directing that a direct access surcharge, exit fee or other cost recovery mechanism be determined, in lieu of an earlier suspension date, to ensure that direct access customers pay the full range of costs necessary to avoid shifting costs to utility bundled service customers. The full range of costs may include those related to generation procurement, such as DWR purchase costs, costs for purchased power from qualifying facilities (QF), costs related to the utilities' retained generation, and other costs as may be identified by parties. This ruling sets forth a procedural schedule for moving forward with the Direct Access cost responsibility determination.

Briefing of Legal Basis for Direct Access Cost Responsibility Charges

As a basis for adopting charges for Direct Access cost responsibility, the Commission needs to consider all relevant legal issues relating to its authority to impose such charges. For this purpose, parties are directed to file concurrent opening and reply briefs on all relevant legal issues relating to the right of the Commission to impose explicit charges for Direct Access cost responsibility. Parties' briefs shall address any restrictions, limitations, or provisions that would

¹ The revenue allocations adopted in D. 02-02-052 were modified by D. 02-03-062 in disposing of various applications for rehearing.

be relevant in determining the nature, form, applicability, and extent of any such fees or charges that may be imposed pursuant to this proceeding. The opening briefs shall be due on April 22, 2002, and reply briefs shall be due on May 6, 2002.

Utility Provision of Data

Because the Commission will consider a broad range of costs for inclusion in a direct access surcharge, the record of this proceeding must include information about the utilities' procurement and generation costs. In their opening testimony, the utilities should identify and quantify the full range of their procurement and generation costs attributable to direct access customers. This information should include and is not limited to cost data on the utilities' retained generation and contracts with QFs. Any confidential data may be submitted with a motion to file under seal.

DWR Provision of Data and Modeling Resources²

At the previous PHC held in A.98-07-003 on December 12, 2001, preliminary deadlines were established for discovery on DWR relating to Direct Access cost responsibility. At the February 22, 2002 PHC held in this docket, legal counsel for DWR indicated that documents are now available which are responsive to parties' previously submitted data requests. In order to facilitate parties' access to those documents, DWR has prepared an index cataloging the requested documents into categories. The index of documents was transmitted to parties on the service list by email on Monday February 25, 2002. Parties were invited to contact DWR to make further

² Various parties joined in filing a motion on March 1, 2002 for an order requiring DWR "to participate in this proceeding and provide access to all modeling information." That motion shall be addressed in a separate ruling.

arrangements to inspect and obtain copies of specific documents of interest as indicated in the document index.

A representative from Navigant Consulting, Inc. also appeared at the PHC on behalf of DWR, indicating that Navigant has performed modeling scenarios regarding how a cost responsibility charge could be determined based on various Direct Access load and DWR cost assumptions. Based on the DWR revenue requirement allocations that were adopted in D.02-02-052, DWR agreed to update its modeling to provide a more robust description of the assumptions underlying the cost responsibility modeling analysis, incorporating the allocations from D.02-02-052. On March 11, 2002, DWR provided the updated modeling runs. On March 19, 2002, DWR provided a subsequent revision to its updated modeling runs.

Following preliminary review by parties of the cost responsibility modeling analysis provided by DWR, a technical workshop, moderated by the Commission's Energy Division staff, will be convened. The workshop shall be scheduled for April 12, 2002. The purpose of the workshop will be to provide parties an opportunity to ask questions of DWR representatives about the modeling, and to identify and to narrow the range of modeling assumptions or sensitivity analyses that DWR will input into modeling runs to analyze various cost responsibility scenarios. DWR and its modeling consultants will be available to discuss and answer questions about the modeling analysis at the workshop.

Based on the range of modeling inputs and scenarios agreed to in the workshop, DWR will perform further modeling runs, and provide the results of the runs to interested parties. DWR is expected to complete and deliver the revised modeling results to the Commission and interested parties by

April 26, 2002.³ The revised modeling runs produced by DWR may be used by parties in preparing testimony on Direct Access cost responsibility issues.

Evidentiary Hearings

The consensus among parties at the PHC was that evidentiary hearings are warranted to develop the record on issues relating to cost responsibility of Direct Access customers for a portion of DWR revenue requirement. In D.02-03-055, the Commission stated its intent that a direct access surcharge be fully compensable. In order to ensure that the Commission is able to consider a fully compensable surcharge, a record must be developed that takes into account all possible cost responsibilities including but not limited to DWR purchase power costs. Parties will be expected to address all cost responsibilities of Direct Access customers at the evidentiary hearings. In particular, attention will be focused on how such cost responsibility for DA customers can be formulated. Parties should be prepared to address how a direct access surcharge should be structured. Evidentiary hearings are hereby authorized, as scheduled below.

In consideration of comments of parties at the PHC, it is determined that the scope of relevant issues to be addressed in evidentiary hearings in this phase of the proceeding shall generally cover issues relating to: (1) methodology of calculating and applying responsibility of Direct Access customers for costs incurred by DWR, and other costs as appropriate, on behalf of all retail end use customers in the service territories of the three major California electric utilities; (2) quantifying the level of charges to be applied; (3) structure of the surcharge;

³ DWR has indicated that any party seeking monthly results of volumes of the net short and monthly projected prices for the spot market purchases will need to execute a non-disclosure agreement with DWR and its consultants.

and (4) determining to what categories of customers the charges shall apply, based on designated criteria.

PG&E also raised the separate issue of treatment of “departing load” customers in terms of DWR cost responsibility. PG&E argues that in addition to direct access, this proceeding should also consider whether “departing load” customers, that is, customers departing from the utility system, should be permitted to escape any responsibility for payment of DWR costs. SCE also agreed that this issue should be considered in this phase of the proceeding. The Energy Producers and Users Representative stated that if this phase of the proceeding does include treatment of departing load customers, then additional notice is needed to affected customers that may elect to participate with respect to this issue.

Because the treatment of departing load customers relates to the broader question of customer responsibility for utility and DWR costs, it is relevant to this phase of the proceeding and shall be included as an issue for evidentiary hearings. The issue of departing load customers raises the question of whether the utilities incur additional costs as a result of direct access customers returning to utility bundled service and whether those returning customers should pay a re-entry charge or fee. Parties should also address this issue in the evidentiary hearings.

In order to ensure proper notice of affected interests, this ruling shall be served also on all Registered Electric Service Providers in California as well as on the service list in Rulemaking 02-02-011 (the Direct Access Rulemaking). Anyone that seeks to participate in this phase of the proceeding and is not already a party in this docket, may request to be added to the service list.

All parties shall serve opening and reply testimony on a concurrent basis. Consistent with procedural practice in earlier phases of this proceeding, testimony and other pleadings shall be served by email in addition to regular mail service.

Adopted Schedule

The following schedule is hereby set:

<u>Event</u>	<u>Date</u>
DWR provides updated modeling runs	March 19
DWR Modeling Workshop	April 12
DWR Revised Model Runs	April 26
Concurrent Briefs on Legal Issues	April 22
Reply Briefs on Legal Issues	May 6
Concurrent Opening Testimony	May 13
Reply Testimony	May 28
Prehearing Conference	June 5
Evidentiary Hearings	June 10-14

The schedule for post-trial briefs and any subsequent procedural events not covered above will be determined by a later ruling.

IT IS RULED that:

1. The procedural schedule set forth above is hereby adopted.
2. The scope of issues to be addressed in this phase of the proceeding shall be as set forth above.
3. A DWR modeling workshop is scheduled for April 12 starting at 10:00 a.m. in the Commission's hearing room, 505 Van Ness Avenue, San Francisco, California. The workshop shall be moderated by a representative of the Commission's Energy Division. Representatives from DWR and Navigant shall also be in attendance to respond to questions.
4. A subsequent prehearing conference shall be convened on June 5, 2002 at 10:00 a.m. for the purpose of determining a schedule for expert witness

appearances. Evidentiary hearings shall commence on June 10, 2002 at 10 a.m. Both the PHC and evidentiary hearings shall be held in the Commission's hearing rooms at 505 Van Ness Avenue, San Francisco, California.

5. This ruling shall also be served on parties of record in the Direct Access Rulemaking (R.02-01-011), as well as on the list of Registered Electric Service Providers in California. Service of this ruling constitutes notice to such parties of the scope of the issues to be addressed in this phase of the proceeding.

6. Anyone that is not already a party to this proceeding but that seeks to participate in the proceeding, may request to be added to the service list, indicating whether the request is to become a party of record or simply to be added to the service list in the "Information Only" category for monitoring purposes.

7. Testimony and other pleadings shall be served by email in addition to regular mail service.

Dated March 29, 2002, at San Francisco, California.

/s/ Thomas R. Pulsifer

Thomas R. Pulsifer
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Setting Procedural Schedule for Direct Access Cost Responsibility Phase on all parties of record in this proceeding or their attorneys of record.

Dated March 29, 2002, at San Francisco, California.

/s/ Antonina V. Swansen
Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.